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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------|---------------------|-------------------------------|
| 10/629,519 | 07/29/2003 | Francesc Diaz Gonzalez | HERR 20.550 | 6047 |
| 7590 | 02/23/2005 | | | |
| KATTEN MUCHIN ZAVIS ROSENMAN 15TH FLOOR 575 MADISON AVENUE NEW YORK, NY 10022-2585 | | | | EXAMINER STEIN, STEPHEN J |
| | | | | ART UNIT 1775 PAPER NUMBER |

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) |
|------------------------------|------------------------|----------------------|
| | 10/629,519 | DIAZ GONZALEZ ET AL. |
| Examiner | Art Unit | |
| Stephen J Stein | 1775 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 December 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.
4a) Of the above claim(s) 13-16 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 5 is/are rejected.

7) Claim(s) 1-4 and 6-16 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/6/03.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: ____ .

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I (Claims 1-12) in the reply filed on December 22, 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Spain on January 31, 2001. It is noted, however, that applicant has not filed a certified copy of the Spanish application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 5 recites the limitation "A potassium ytterbium double wolframate single crystal, according to claim 2, wherein the positive crystallographic axis *b* emerges from the drawing (Figure 3); the main...". This limitation makes the claim indefinite since figure 3 is not encompassed within the claim and therefore the scope of the claim is unknown.

Allowable Subject Matter

6. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 1-4 and 6-10 are allowed over the prior art of record.

8. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to teach or suggest a single crystal of potassium ytterbium double wolframate having the formula $KYb(WO_4)_2$.

The closest prior art of record is C. Pjol et al. *Growth and characterization of monoclinic $KGd_{1-x}RE_x(WO_4)_2$* Optical Materials 13 (1999) pp. 33-40 (Pujol). Pujol discloses a doped single crystal potassium gadolinium double wolframate of the formula $KGd_{1-x}RE_x(WO_4)_2$. The gadolinium potassium double wolframate is doped with a RE^{3+} ion such as Nd, Er, Yb, Tm, Ho and PR where the molar ratio x is one of 0.01, 0.04 and 0.05. While this double wolframate compound may have Yb present as a dopant, the reference also requires that the molar ratio of the dopant relative to the compound is less than 1 (e.g. 0.01, 0.04 and 0.05) and therefore the reference requires that the gadolinium must be present in the disclosed compound. Applicants claims require a single crystal $KYb(WO_4)_2$ which may be optionally doped. Since Pujol reference requires that the Gadolinium be present as part of the compound and the Yb is only present as dopant in low molar concentrations, the references fails to anticipate the single crystal compound claimed by applicants.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Stein whose telephone number is 572-272-1544. The examiner can normally be reached on Monday through Friday from 8:30 a.m. to 5:00 p.m. If the attempts to reach the examiner are unsuccessful, the examiner's supervisor, Deborah Jones can be reached by dialing 571-272-1535. The official fax number is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 14, 2005


Stephen J. Stein
Primary Examiner
Art Unit 1775